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10/812,278	03/29/2004	Shivakumar Basalingappa Hendi	CO/2-22870/A/CGC 2148	2270

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EXAMINER

KOSLOW, CAROL M

ART UNIT PAPER NUMBER

1755

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/812,278

**Applicant(s)**HENDI, SHIVAKUMAR  
BASALINGAPPA**Examiner**

C. Melissa Koslow

**Art Unit**

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1755

This action is in response to applicant's amendment of 30 January 2006. The certificate of mailing date is 1/26/05 and thus cannot be granted. The amendments to the claims have overcome the 35 USC 112 rejection. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new grounds of rejection.

Claims 2 and 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is unclear as to the composition of the mixture of flop-enhancing agents. This is because claim 1, from which claim 2 depends, only teaches halogenated copper phthalocyanines as flop-enhancing agents but claim 2 teaches the flop-enhancing agents also includes indanthrones and carbazole dioxazines. It is suggested to rewrite this claim to state the flop-enhancing agent is a mixture of at least two halogenated copper phthalocyanines; a mixture of at least one halogenated copper phthalocyanine and at least one indanthrone; a mixture of at least one halogenated copper phthalocyanine and at least one carbazole dioxazine or a mixture of at least one halogenated copper phthalocyanine, at least one indanthrone and at least one carbazole dioxazine.

Claims 4 and 5 recites the limitation "at least one flop-enhancing agent". There is insufficient antecedent basis for this limitation in the claims or in claim 2 from which they depend. It is suggested to change "at least one flop-enhancing agent is a(n)" to "the" in each of these claims to overcome the rejection.

Claim 6 is indefinite as written since claim 1, as amended, does not teach an indanthrone and a carbazole dioxazine compound.

Art Unit: 1755

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 6 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 5,997,627.

Example 12 teaches coating compositions comprising halogenated copper phthalocyanine pigment, blue copper phthalocyanine pigment and one of a coated mica or aluminum flakes. Column 3, lines 8-9 teach these phthalocyanine pigments are transparent pigments, which means they have a specific surface area in the range from 40-100 m<sup>2</sup>/g. This example of this reference teaches the claimed coating composition.

Claims 1, 3, 6-11, 15-17 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 5,618,343.

This reference teaches a pigment composition comprising a transparent pigment, which is one having a specific surface area in the range from 40-100 m<sup>2</sup>/g. and 0.1-10 wt% of a flop-enhancing agent. Column 4, line 3 through column 6, line 2 teaches the transparent pigment can be those claimed in claims 7-9, 15 and 17-19. Column 6, lines 15-36 teach the composition can also contain a rheology improving agent such as those claimed. Column 2, line 1-33 teaches the flop-enhancing agent can be a halogenated copper phthalocyanine or a copper phthalocyanine substituted with a halogen and at least one substituent selected from the group consisting of a C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub>, where X is a C<sub>1-6</sub> alkylene and R<sub>1</sub> and R<sub>2</sub> are independently hydrogen, C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub>. The halogen and the substituent are on the benzene ring. Column 6, line 37 through column 31, examples 14-19 and claims 1 and 22 teach a coating composition comprising the above pigment mixture and an effective pigment, such as coated

Art Unit: 1755

micas, uncoated micas, aluminum flakes and graphite flakes. The reference teaches the claimed coating composition, pigment composition and method.

Applicants have argued that the reference does not teach the claimed halogenated copper phthalocyanine with sufficient specificity to constitute anticipation and then refers to MPEP 2131.03. This section and standard relate to number ranges, not the anticipation of a species, as is the case in this application. The section of the MPEP addressing whether a reference anticipates a species is MPEP 2131.02. Based on this section, the teaching in column 2 of the reference anticipates the claimed halogenated copper phthalocyanine since it specifically discloses copper phthalocyanine substituted with halogen and one of ordinary skill in the art can at once envision copper phthalocyanines substituted with halogen or substituted with halogen and at least one substituent selected from the group consisting of a C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub>, where X is a C<sub>1-6</sub> alkylene and R<sub>1</sub> and R<sub>2</sub> are independently hydrogen, C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub>. The showing in table IV, while it does show Pigment Green 7 has better outdoor durability than copper phthalocyanine sulfonic acid, does not overcome the rejection. Evidence of unexpected results is not relevant to anticipation. *Ex parte A*. 17 USPQ 2d 1717, 1718 (BPAI 1990); *In re Malagari* 182 USPQ 549 (CCPA 1974).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 5 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,618,343.

Art Unit: 1755

As discussed above, this reference teaches a pigment composition comprising a transparent pigment, which is one having a specific surface area in the range from 40-100 m<sup>2</sup>/g. and 0.1-10 wt% of a flop-enhancing agent and a coating composition comprising the pigment composition and an effect pigment. The reference teaches the flop-enhancing agent can be halogenated copper phthalocyanine, optionally substituted indanthrone or optionally substituted carbazole dioxazine. The substituents for indanthrone and carbazole dioxazine are selected from a halogen, C<sub>1-6</sub> alkyl group, NR<sub>1</sub>R<sub>2</sub> or -X-NR<sub>1</sub>R<sub>2</sub>, where X is a C<sub>1-6</sub> alkylene and R<sub>1</sub> and R<sub>2</sub> are independently hydrogen, C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub> and are on the benzene rings of the compounds. As discussed above, the halogenated copper phthalocyanine can be optionally substituted with at least one substituent selected from the group consisting of a C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub>, where X is a C<sub>1-6</sub> alkylene and R<sub>1</sub> and R<sub>2</sub> are independently hydrogen, C<sub>1-6</sub> alkyl group or -X-NR<sub>1</sub>R<sub>2</sub>. These substituents are on the benzene ring. The reference does not teach the use of combinations of these flop-enhancing agents. Since all three compounds have the same purpose, one of ordinary skill in the art would have found it obvious to use combinations of two or all three of these compounds as flop-enhancing agents in the taught pigment and coating compositions, where the total amount of the combination of agents is 0.1-10 wt% of the taught pigment composition. "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition which is to be used for the very same purpose." *In re Kerkhoven* 205 USPQ 1069 (CCPA 1980). Cites *In re Susi* 169 USPQ 423, 426 (CCPA 1971); *In re Crockett* 126 USPQ 186, 188 (CCPA 1960). See also *Ex parte Quadranti* 25 USPQ 2d 1071 (BPAI 1992).

Art Unit: 1755

Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

There is no suggestion or teaching in the cited art of record of a pigment mixture comprising a transparent pigment and 0.1-10 wt% of Pigment Green 7 or 36. These two specific halogenated copper phthalocyanine pigments are not disclosed, not at once envisioned and not suggested by the reference.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk  
July 14, 2006

  
C. Melissa Koslow  
Primary Examiner  
Tech. Center 1700